

суспільства, роблячи «не такими, як усі». У ряді міжнародних актів сказано, що кожна людина, яка страждає на психічні розлади, має право, наскільки це можливо, жити і працювати в суспільстві. Тому не потрібно виділяти таких людей в певну особливу категорію, а дати їм відчуття себе потрібними. Ось, що на мою думку, повинні пропагувати міжнародні стандарти щодо захисту прав осіб з психічними розладами.

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THE UN INFLUENCE ON THE HUMAN RIGHTS ACTIVITY IN UKRAINE

The protection of human rights is urgent in the context of national and international policy. The common model of remedial activity is the activity of UN. The cooperation between Ukraine and the UN is developed and that is reflected by acceptance of the numerous partnership Programs, directed on the Ukrainian citizens life improving, protecting their rights and freedoms, developing welfare.

The problem of the report concerns, that human rights bodies in Ukraine in contrast to the law enforcement agencies haven't got a state status. That is why their functions and enforcement powers have no clear criteria. Although Ukrainian government ratified the main international documents, in fact there are no guarantees, that the resolutions and advises of the Committees will be realized. In the relationship between Ukrainian government and the UN is present «the institutional conflict»: agreements of Ukraine and the UN receive the declarative meaning. From the UN to Ukraine there is a danger of intervention and influence on the internal human rights bodies and law enforcement agencies. So the UN human rights bodies, such as High Commissioner for Human Rights, UN Human Rights Council, International Court of Justice, acted in the same time as the human rights bodies and provide assistance to the Ukrainian citizens.

Remedial activity, realized by the UN, includes the mechanisms of protection human rights, which are established in the national law: the realisation of the right on the submission the individual complaints and collective complaints to the UN bodies in case of the infringement their rights or the restriction of their freedoms. Due to the individual complaints human rights are given concrete meaning.

Referring to the Constitution of Ukraine, after exhausting all domestic legal instruments, everyone shall have the right to appeal for the protection of his rights and freedoms to the relevant international judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant [1, article. 55]. Ukrainian citizens have the right to submit individual and collective complaints to the UN bodies, especially to the UN Human Rights Council, which established the complaints procedure [2]. It consists of two distinct working groups: the Working Group on Communications and the Working Group on Situations. The Working Group on Communications together with the Secretariat assess the admissibility and the merits of a communication, including whether the communication alone or in combination with other communications, appears to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. The Working Group on Situations, on the basis of the information and recommendations provided by the Working Group on Communications, presents the Council with a report on consistent patterns of gross and reliably attested violations of human rights and fundamental

freedoms and makes recommendations to the Council on the course of action to take.

The High Commissioner for Human Rights is responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It provides consulting, technical, financial assistance on the request of the interested state, and if there is a need on the request of regional organization for protection human rights, in aim to support present programs in field of human rights [3].

A communication related to a violation of human rights and fundamental freedoms is admissible, unless: it has manifestly political motivations and its object is not consistent with the UN Charter, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law; or it does not contain a factual description of the alleged violations, including the rights which are alleged to be violated; or its language is abusive. However, such communication may be considered if it meets the other criteria for admissibility after deletion of the abusive language; or it is not submitted by a person or a group of persons claiming to be the victim of violations of human rights and fundamental freedoms or by any person or group of persons, including NGOs acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the UN Charter and claiming to have direct and reliable knowledge of those violations. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual author is second hand, provided they are accompanied by clear evidence; or it is exclusively based on reports disseminated by mass media; or it refers to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights; or the domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

The National Human Rights Institutions, when they are established and work under the guidelines of the Principles Relating to Status of National Institutions (the Paris Principles) including in regard to quasi-judicial competence, can serve as effective means in addressing individual human rights violations [4].

Furthermore the individual complaints and communications may be sent to the UN bodies such as the Committee on the Elimination of Discrimination against Women, the Committee Against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families.

The individual complaints or communications may be considered on the basis of the «main» treaties: «The International Covenant on Civil and Political Rights», «The International Convention on the Elimination of All Forms of Racial Discrimination», «Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment», «Convention on the Elimination of All Forms of Discrimination against Women».

Each of these treaties establishes a quasi-judicial committee to examine complaints. The complaints procedure has a sectoral differentiation in aim to increase the efficiency of the complaints consideration. The range of the restrictions of submission the complaints guarantees the efficient and prompt consideration of the cases.

Committee decision cannot be appealed. If the Committee recognized, that you are the victim of violation of human rights and fundamental freedoms by a State party, the State party received the information about the rules and procedures it has to follow. The Constitution of Ukraine enforces, that International treaties in force, consented by the Verkhovna Rada of Ukraine as binding, shall be an integral part of the national legislation of Ukraine [1, Article 9]. That is the special guarantee of implementation the UN Committees resolutions.

To conclusion, the remedial activity of the UN has a great influence on the remedial politics in Ukraine. The UN human rights activity, that considers Ukraine, is directed on the guaranteeing welfare in all fields in the state. Investigating the ways and forms of organising the remedial activity of the UN and its realization in Ukraine is an important stage in the process of human rights developing and creating the balanced national legislation.

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ЗАПРЕТ НА ДИФФАМАЦИЮ РЕЛИГИИ: ОБОСНОВАННАЯ НЕОБХОДИМОСТЬ ИЛИ НАРУШЕНИЕ ПРАВ ЧЕЛОВЕКА?

На сегодняшний день существует ряд резолюций Генеральной Ассамблеи ООН и Совета ООН по правам человека и целую совокупность докладов касаясь запрета на диффамацию религии. Однако, неоднозначность и неясность данного вопроса, а также его острая актуальности, порождает огромное количество споров и дискуссий, как между теоретиками международного права, так и между представителями государств.

Само по себе, понятие «диффамация религии» является не закрепленным, и более того, лишь частично разработанным, что уже содействует возникновению противоречий вокруг данного вопроса. В своих резолюциях ГА ООН дает лишь довольно размытый перечень дискриминационных практик, отождествляемых с диффамацией религии: формирование и увековечение унижительных стереотипных представлений о некоторых религиях, стигматизация людей на основе их религии и убеждений, негативное освещение определенных религий и религиозных символов и неуважительное отношение к ним.[3]

Впервые вопрос запрета диффамации религии, на международном уровне, был поднят Организацией Исламского Сотрудничества в 1999 году на заседании Совета ООН по правам человека.